

agency that is authorized to obtain criminal history record information by a federal statute, federal executive order or a state statute that has been approved by the United States Attorney General; and

(2) To a private contractor, or other nongovernmental entity or organization, pursuant to a contractual agreement under which the entity or organization performs activities or functions for a governmental agency authorized to obtain criminal history record information as identified in paragraph (a)(1) of this section or for a nongovernmental entity authorized to obtain such information by federal statute or executive order.

(b) Criminal history record information provided in response to fingerprint-based III System record requests initiated by authorized governmental agencies or nongovernmental entities for noncriminal justice purposes may be made available to contracting agencies or organizations manually or electronically for such authorized purposes. Such contractors, agencies, or organizations shall not be permitted to have direct access to the III System by computer terminal or other automated means which would enable them to initiate record requests, provided however, the foregoing restriction shall not apply with respect to: (1) Persons, agencies, or organizations that may enter into contracts with the FBI or State criminal history record repositories for the performance of authorized functions requiring direct access to criminal history record information; and (2) any direct access to records covered by 42 U.S.C. 14614(b).

(c) The contracts or agreements authorized by paragraphs (a)(1) and (a)(2) of this section shall specifically describe the purposes for which criminal history record information may be made available to the contractor and shall incorporate by reference a security and management control outsourcing standard approved by the Compact Council after consultation with the United States Attorney General. The security and management control outsourcing standard shall specifically authorize access to criminal history record information; limit the use of the information to the purposes for which

it is provided; prohibit retention and/or dissemination of the information except as specifically authorized in the security and management control outsourcing standard; ensure the security and confidentiality of the information; provide for audits and sanctions; provide conditions for termination of the contractual agreement; and contain such other provisions as the Compact Council, after consultation with the United States Attorney General, may require.

(d) The exchange of criminal history record information with an authorized governmental or nongovernmental entity or contractor pursuant to this part is subject to cancellation for use, retention or dissemination of the information in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the Compact Council in consultation with the United States Attorney General.

PART 907—COMPACT COUNCIL PROCEDURES FOR COMPLIANT CONDUCT AND RESPONSIBLE USE OF THE INTERSTATE IDENTIFICATION INDEX (III) SYSTEM FOR NONCRIMINAL JUSTICE PURPOSES

Sec.

907.1 Purpose and authority.

907.2 Applicability.

907.3 Assessing compliance.

907.4 Methodology for resolving noncompliance.

907.5 Sanction adjudication.

AUTHORITY: 42 U.S.C. 14616.

SOURCE: 70 FR 69898, Nov. 18, 2005, unless otherwise noted.

§ 907.1 Purpose and authority.

Part 907 establishes policies and procedures to ensure that use of the III System for noncriminal justice purposes complies with the National Crime Prevention and Privacy Compact (Compact) and with rules, standards, and procedures established by the Compact Council regarding application and response procedures, record dissemination and use, response times,

data quality, system security, accuracy, privacy protection, and other aspects of III System operation for noncriminal justice purposes. The rule is established pursuant to Article VI of the Compact, which authorizes the Compact Council to promulgate rules, procedures, and standards governing the use of the III System for noncriminal justice purposes. The rule requires responsible authorized access to the System and proper use of records that are obtained from the System. The rule provides comprehensive procedures for a coordinated compliance effort among the Compact Council, the FBI, and local, State and Federal government agencies, and encourages the cooperation of all affected parties.

§ 907.2 Applicability.

This rule applies to III System access for noncriminal justice purposes as covered by the Compact, *see* 42 U.S.C. 14614 and 14616, and use of information obtained by means of the System for such purposes. The rule establishes procedures for ensuring that the FBI's and Compact Party States' criminal history record repositories carry out their responsibilities under the Compact, as set out in the National Fingerprint File (NFF) Qualification Requirements, and that local, State and Federal government agencies using the III System for noncriminal justice purposes comply with the Compact and with applicable Compact Council rules.

§ 907.3 Assessing compliance.

(a) The FBI CJIS Division staff regularly conducts systematic compliance reviews of state repositories. These reviews may include, as necessary, reviews of III System user agencies, including governmental and nongovernmental noncriminal justice entities that submit fingerprints to the State repositories and criminal justice and noncriminal justice agencies with direct access to the III System. These reviews may include, as necessary, the governmental and nongovernmental noncriminal justice entities authorized to submit fingerprints directly to the FBI. The reviews may consist of systematic analyses and evaluations, including on-site investigations, and shall be as comprehensive as necessary

to adequately ensure compliance with the Compact and Compact Council rules. Violations may also be reported or detected independently of a review.

(b) The FBI CJIS Division staff or the audit team established to review the FBI's noncriminal justice use of the III System shall prepare a draft report describing the nature and results of each review and set out all findings of compliance and noncompliance, including any reasons for noncompliance and the circumstances surrounding the noncompliance. If the agency under review is the FBI or another Federal agency, the draft report shall be forwarded to the FBI Compact Officer. If the agency under review is a State or local agency in a Party State, the draft report shall be forwarded to the State Compact Officer. If the agency under review is a State or local agency in a Nonparty State, the draft report shall be forwarded to the chief administrator of the State repository.

(c) The Compact Officer of the FBI or a Party State or the chief administrator of the State repository in a Nonparty State shall be afforded the opportunity to forward comments and supporting materials to the FBI CJIS Division staff or to the audit team.

(d) The FBI CJIS Division staff or the audit team shall review any comments and materials received and shall incorporate applicable revisions into a final report. The final report shall be provided to the Compact Officer of the FBI or a Party State or the chief administrator of the State repository in a Nonparty State to whom the draft report was sent. If the agency under review is a State or local agency, a copy of the report shall be provided to the FBI Compact Officer. If the agency under review is being reviewed for the first time, the letter transmitting the report shall provide that sanctions will not be imposed regarding any deficiencies set out in the report. The letter shall also advise, however, that the deficiencies must be remedied and failure to do so before the agency is reviewed again will result in the initiation of remedial action pursuant to § 907.4.